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STATEMENT OF SALLY KATZEN  
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BEFORE THE  
SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT  
AND THE  
SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS  
COMMITTEE ON COMMERCE  
U.S. HOUSE OF REPRESENTATIVES

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Mr. Chairman, Members of this Committee. You have asked me to appear here today to discuss EPA's proposals to revise the ozone and particulate matter (PM) ambient air quality standards (NAAQS). These EPA proposals have sparked enormous interest from a wide variety of affected groups -- environmentalists and health professionals, who view these standards as a necessary and important step to improving public health; the State and local governments, who have the front-line responsibility for implementing these standards; and industry and other entities, who will have to take the steps necessary so that areas are able to attain the proposed standards. Their interests and concerns range from the adverse health effects to be ameliorated by these standards -- and the scientific support and other science policy issues underlying these standards -- to the administrative and other practical means by which these standards will be implemented, to the economic effects of complying with these standards -- the opportunity and other costs incurred by those who will have to change their conduct to achieve these standards.

In my experience as Administrator of the Office of Information and Regulatory Affairs (OIRA) in OMB, there is more public interest in these two proposals than in any other rulemakings. And I am acutely aware of the interest and questions that have been

raised about OMB's review of these proposed rules under Executive Order No. 12866 -- from the logistics of how and when we conducted the review, to the substance of what we thought of the proposed rules and the accompanying economic analyses that EPA prepared.

With me today is Mary D. Nichols, EPA's Assistant Administrator for Air and Radiation. Under the Executive Order, the agency has the statutory authority and bears the responsibility for developing substantive regulatory standards. OIRA's role is to provide dispassionate, objective review of the agency's work in light of the Executive Order. Our task is to assure that the regulatory agency asks the right questions, considers the relevant scientific and other data, employs sound analysis, and balances the competing concerns in a reasonable, practical way. In addition, for proposed rules, we assure that the regulatory agency presents its proposal, and the justification for it, in a way to permit informed, meaningful input from the public.

E.O. 12866 sets forth a number of principles generally applicable to regulatory decision-making. It was, however, purposefully qualified to apply "to the extent permitted by law." That qualification is particularly important for these proposals. Under the Clean Air Act, the EPA Administrator is to set primary air quality standards that "protect public health with an adequate margin of safety." These standards, therefore, are health-based, and the EPA Administrator is not to consider economic factors in determining the appropriate standards.

E.O. 12866 nonetheless requires agencies to prepare economic analyses for proposed and final rules and to submit them to OIRA for review, even if economic considerations cannot be a determining factor -- or any factor -- in formulating the proposal. Where, as here, a statute precludes the consideration of economic factors, such

analysis is still important because it helps to inform the Administration, Congress, and the public of the benefits and cost of regulatory actions.

In accordance with E.O. 12866, EPA prepared extensive benefit-cost analyses -- over three inches of material -- for these proposed standards. These analyses included ambitious and sophisticated modeling efforts based on inventories of known emissions sources in which the agency attempted to identify, for various geographic areas, the most efficient set of control measures for attaining the standards, the costs of these measures, and the extent of air quality benefits that would be achieved. Projected air quality improvements served as the basis for an assessment of some of the potential health benefits, which were monetized by assigning dollar values to reductions in the risk of each outcome.

It was important that EPA prepared these economic analyses, for while the standards themselves are health-based and may not reflect economic considerations, they are not self-executing. Instead, after the standards are set, EPA must issue implementation policies or regulations that provide for the achievement of these standards. In the ordinary course, this would include specifying how to determine whether localities are or are not in attainment, the timing for achieving attainment, guidance on control strategies to achieve attainment, and sanctions for failure to submit plans or achieve attainment. In these implementation phases, costs should and will play a very significant role. As a result of EPA's preparing the economic analyses during the standard-setting phase, those addressing implementation issues -- EPA, its advisory committees, the State and local governments who are responsible for implementing these standards, and all those affected -- will likely have the best information available as they do their work.

Let me now discuss the specifics of OMB's review of these proposed standards. Before we received the proposed rules, OIRA staff had attended a number of meetings at which EPA explained in general terms the methodology it was using in its analysis of these rules (e.g., data, assumptions, models, etc.). In addition, EPA and OIRA staff had hosted a number of interagency meetings with EPA staff briefing other Federal agencies on the general issues surrounding EPA's review of ozone and particulate matter standards.

EPA submitted the proposed rules on November 4, 1996. We had to work quickly because of a court-ordered deadline to issue the particulate matter standard by November 29, 1996. Although there was no court-ordered deadline for the ozone standard, EPA thought it important to publish the two proposals simultaneously. This would allow the regulated community and other interested entities to evaluate each of the proposals with the other in mind and to consider how the two proposals would interact.

During these three weeks available for review, my staff worked intensively, working late into the evenings and weekends. The shortness of time undoubtedly put a strain -- both on my staff and on EPA's as well. Our task was, as noted above, to assure that the regulatory option preferred by the agency is fully explained, and that other appropriate regulatory options are set forth with sufficient clarity to permit the public to provide meaningful comments during the public comment period. We used the same approach for the accompanying economic analyses -- namely, to assure that the agency provides sufficient and accurate information on the estimates of benefits and costs to permit the public to provide meaningful comments.

In your letter of invitation for today's hearing, you asked that I comment on OMB's assessment of EPA's cost-benefit analysis for its proposed rules. I was asked this

question by the Chairman of this Committee in a letter dated December 16, 1996, to which I responded on January 15, 1997. We were also asked for documents concerning this same issue by the Chairman of the Committee on Government Reform and Oversight's Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs, in a letter dated January 17, 1997, to which we responded on February 11, 1997 and February 24, 1997. As I described in my written responses, and as indicated above, the EPA conducted extensive analyses of the costs and benefits of the proposed standards, which produced much useful information. At the same time, my staff identified several areas -- including the selection of various baselines, analyses of standards of differing stringency, additional clarification and sensitivity analyses of the ranges of uncertainties associated with various assumptions used in the modeling, additional categories of benefits and costs that could be quantified or monetized, and the feasibility of attainment -- where additional work would have been productive. As I also indicated in my responses, EPA has advised us that these areas will be addressed in the economic analyses accompanying the final rules.

We will be reviewing all of this material, as well as the comments that were filed as part of the public rulemaking process or submitted to us as part of the outreach effort that we have undertaken, when we review the final rule packages presented by EPA later this Spring.

Thank you for the opportunity to appear here today. I welcome any questions.

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